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राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, 20 नवम्बर, 1989/29 कार्तिक, 1911

हिमाचल प्रदेश सरकार

HIMACHAL PRADESH ADMINISTRATIVE TRIBUNAL AT SHIMLA

NOTIFICATION

Shimla-2, the 19th October, 1989

No. AT Judicial/1-3/89.—In exercise of powers conferred by section 23 of the Contempt of Courts Act, 1971 (70 of 1971) read with section 17 of the Administrative Tribunals Act, 1985 (13 of 1985) and all other powers enabling it in this behalf, the Himachal Pradesh Administrative Tribunal hereby makes the following rules to regulate the proceedings under the said Act, namely :—

1. *Short title.*—(i) These rules may be called Himachal Pradesh Administrative Tribunal (Contempt of Courts) Rules, 1989.

(ii) They shall come into force from the date of publication in the Official Gazette of Himachal Pradesh.

2. *Definitions.*—In these rules unless there is anything repugnant to the subject or context,—

- (a) 'Act' means the Contempt of Courts Act, 1971 (70 of 1971).
- (b) 'Form' means the form (s) set out in the appendix to these rules.
- (c) 'Member' means a Member, whether 'Judicial' or 'Administrative' and includes Chairman.
- (d) 'Registrar' means Registrar of the Himachal Pradesh Administrative Tribunal and shall include Deputy Registrar.
- (e) 'Section' means a section of the Act.
- (f) 'Tribunal' means the Himachal Pradesh Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 or the Bench thereof, where the proceedings are taken cognizance of.
- (g) Words and expressions not defined in these rules shall have the meaning assigned to them in the Act.

3. *Contempt in the presence of the Tribunal.*—(i) Where the contempt is committed in view or presence or hearing of the Tribunal, contemner may be punished by the Tribunal before which it is committed, either forthwith or on such date as may be appointed by the Tribunal in that behalf.

(ii) Pending determination of the charge, the Tribunal may direct that the contemner shall be detained in such custody as it may specify :

Provided that the contemner may be released on bail on such terms as the Tribunal may direct. In this regard, provisions of rule 11 shall apply.

4. *Cognizance.*—In a contempt other than the contempt referred to in rule 3, the Tribunal may take action :—

- (i) *Suo motu* ; or
- (ii) On a petition made by the Advocate General or Additional Advocate General of State of Himachal Pradesh;
- (iii) On a petition made by any person.

5. *Registration of Petition.*—(i) Every petition or motion for taking proceedings under the Act shall be registered as contempt petition (Civil) in respect of civil contempt and contempt petition (Criminal) in respect of criminal contempt.

(ii) In proceedings, initiated on a petition, the initiator shall be described as the petitioner and the opposite party as the respondent and in other cases the description of the persons proceeded against shall be as follows :—

In re :

.....son ofoccupation
resident of—.....

6. *Form of Petition.*—Every petition under rule 5 shall be in a paper book form and shall contain :—

- (i) Name, description and place of residence of the petitioner or petitioners and of the person or persons charged;

- (ii) Nature of contempt alleged and such material facts including the date or dates of the commission of the alleged contempt, as may be necessary for the proper determination of the petition;
- (iii) If a petition has previously been made by him on the same facts, the petitioner shall give details of the petition previously made and shall indicate the result thereof;
- (iv) The petition shall be supported by an affidavit;
- (v) Where the petitioner relies upon a document in his possession, or power, he shall file such documents or true copies thereof with the petition;
- (vi) No fee shall be payable on a petition or any document filed in the proceedings; and
- (vii) The petitioner shall file three copies of the petition in paper book form. Where the number of respondents is more than one, equal number of extra paper books shall be filed.

7. *Initiation of proceedings.*—(i) Any petition, information or motion for action being taken under the Act, shall in the first instance, be placed before the Chairman in the case of Principal Bench and the concerned Member(s) in the case of other Bench(es).

(ii) The Chairman or the concerned Member (s) or such other Member (s) as may be designated by him for this purpose, shall determine the expediency or propriety of taking the action under the Act.

8. *Admission.*—(i) Where the Chairman, in the case of Principal Bench, or the concerned Member(s) in the case of other Bench(es) decide that the action should be taken under the Act against the alleged contemner, a case shall be registered and numbered as per rule 5 in the register in Form No. I and the Registrar shall cause,—

- (a) a notice to be issued to the Advocate General or Additional Advocate General for the Himachal Pradesh Government in Form II when the case is taken cognizance of *suo motu*; and
- (b) also a notice be issued to the alleged contemner in Form III to appear before the Tribunal in person or through an Advocate on a date to be specified therein to show cause against such proceedings.

(ii) A copy of any order made under sub-rule (i) and such other papers as may be deemed necessary by the Chairman or the concerned Member (s) who take the decision under rule 7, shall accompany such notices.

(iii) The notice shall bear the date, seal of the Tribunal and shall be issued under the signatures of the Registrar or Deputy Registrar or any other officer as may be authorised.

9. *Compelling attendance.*—(i) The notice of every petition or motion under the Act shall be served personally on the person charged unless the Tribunal for reasons to be recorded directs otherwise.

(ii) The Registrar or Dy. Registrar or any other officer authorised may issue fresh notice, if he considers service of notice is not sufficient.

(iii) If the Registrar considers service to be sufficient and the alleged contemner does not appear on the date fixed for his appearance, the petition shall be posted for orders of the Tribunal.

(iv) The Tribunal, if satisfied that the person charged is absconding or is likely to abscond or is keeping or is likely to keep out of the way to avoid service of notice or if he fails to appear in person or continues to be absent, order the issue of bailable or non-bailable warrant of his arrest to one or more Police Officers or District Magistrate or Chief Judicial Magistrate

of the District in the manner laid down in sections 70 to 81 of the Code of Criminal Procedure.

(v) In addition to or in lieu of the warrants as specified in sub-rule (iv), the Tribunal may also in a case of criminal contempt, order attachment of his property under sub-sections (3) and (4) of section 17 of the Act.

10. Presence of alleged contemner.—Unless ordered otherwise by the Tribunal, whenever a notice is issued under these rules, the alleged contemner shall appear,—

(a) personally in the case of a criminal contempt, and

(b) personally or through an Advocate in the case of civil contempt, at the time and place specified in the notice and continue to attend on subsequent hearings also to which the petition may be adjourned.

11. Release on bail.—(i) Where any alleged contemner appears or is produced while in custody, at any stage of proceedings before the Tribunal and is required to give bail, such person shall be released on bail, if a bond for such sum of money as the Tribunal thinks fit/sufficient with or without sureties, on the condition that such person shall attend, at the time and place mentioned in the bond and shall continue to attend until otherwise directed by the Tribunal:

Provided that the Tribunal may, if it thinks fit instead of taking bail from such person, release him on his executing a bond without sureties for his attendance as aforesaid or without such a bond.

(ii) Notwithstanding anything contained in sub-rule (i) where a person fails to comply with the conditions of the bail bond as regards the time, place and attendance, the Tribunal may refuse him bail on subsequent occasion in the same case when he appears before the Tribunal or brought in custody and such refusal shall be without prejudice to the powers of the Tribunal to call upon any such person bound by such bond to pay penalty thereof.

(iii) The provisions of sections 436 to 460 of the Code of Criminal Procedure, 1973 (Act II of 1974) shall apply to all the bonds executed under these rules.

12. Procedure on forfeiture of the bond.—If any bond given for appearance of the alleged contemner has been forfeited due to absence of the alleged contemner, the Tribunal may, after giving opportunity to the alleged contemner or the surety, as the case may be, levy the whole or any part of the amount mentioned in the surety bond, as penalty and direct the same to be recovered as if it was a fine posed on the alleged contemner.

13. Right to be defended by Legal Practitioner.—Every person against whom proceedings initiated under the Act, may of right be defended by a Legal Practitioner of his choice.

14. Objections of the alleged contemner.—When the alleged contemner appears in person or through an Advocate, he shall be called upon to file a statement of his objections, if any, which may be in the form of an affidavit :

Provided that, when the alleged contemner is produced in custody he shall be questioned, whether he has received the notice and copies of the papers mentioned in rule 8 sub-rule (ii) or not, and if he has not received them, he shall be furnished copies thereof and granted sufficient time to file the statement and his objections.

15. Inquiry and charge.—(i) Upon considering the objections stated by the alleged contemner and after hearing the parties the Tribunal may proceed to charge him, if in its opinion, a *prima facie* case has been made out, and shall discharge him if no such case has been made out.

(ii) If the Tribunal so thinks fit, the charge shall be in writing and in Form No. IV it shall state precisely and consisely all material particulars constituting the offence charged.

(iii) The charge shall be explained to the alleged contemner and if in writing, a copy of the same may be furnished to him free of cost.

(iv) The Tribunal may record the plea of the alleged contemner and if necessary, adjourn the case for further proceedings.

16. *Production of evidence.*—Before the adjourned date of hearing, the petitioner and the alleged contemner may file in the Tribunal any documents, statements and affidavits either of them wishes to rely upon. The Tribunal may in its discretion examine or permit any witness to be examined by any of the parties.

17. *Trial of the alleged contemner.*—(i) In the case of a criminal contempt, on the date fixed for trial or any adjourned date, the Tribunal may proceed to examine witnesses, if any, for the petitioner, and after the petitioner has closed his evidence, the Tribunal shall examine the alleged contemner generally on the case in the manner provided in section 313 of the Code of Criminal Procedure and record his statement.

(ii) Thereafter, the Tribunal shall call upon the alleged contemner to enter upon his defence and examine the witnesses, if any, tendered on his behalf, whether or not the witness is named in any list filed by him.

(iii) After examination of the witnesses and hearing arguments, if any, the Tribunal shall pronounce judgement.

18. *Expenses of witnesses.*—(i) Where any person is summoned by the Tribunal to appear as a witness in any proceeding under the Act, the expenses of such witnesses as determined by the Tribunal shall be borne by the party who has cited him as a witness.

(ii) Where the Tribunal summons any witness other than the witness cited by the parties, his expenses as determined by the Tribunal shall be paid by the Registrar from the contingency funds.

19. *Oath not to be administered.*—No oath shall be administered to an alleged contemner in these proceedings unless he tenders himself as a witness.

20. *Discharge of alleged contemner.*—If the Tribunal does not find the alleged contemner guilty, it shall discharge him recording an order to that effect at any stage of the proceedings.

21. *Execution of sentences.*—(i) If the Tribunal finds the alleged contemner guilty and awards any sentence of imprisonment other than imprisonment till the rising of the Tribunal, the Registrar shall issue a warrant in Form V committing him to prison. The warrant shall be addressed to the Superintendent, Central Jail or District Jail, as the case may be.

(ii) If the Tribunal awards sentence of fine and the fine amount is not paid at once or within such time as may be granted by the Tribunal, the Registrar shall take action as laid down under section 421 of the Code of Criminal Procedure for the recovery of the same.

(iii) The report of action taken by the Superintendent of Central Jail or Superintendent of District Jail to whom the warrants under sub-rule (i) might have been addressed shall be filed in the records of the case.

22. *Procedure on apology.*—(i) If at any time during the pendency of the proceedings and thereafter before the execution of the sentence, the contemner tenders an apology, the same shall be placed for orders of the Tribunal at once, with the record of the case.

(ii) If the Tribunal accepts the apology, further proceedings shall be dropped and the warrant, if any issued, shall be recalled by an order in Form VI.

23. *Costs.*—(i) The Tribunal may award costs as it deems fit in the circumstances of the cases.

(ii) The costs so awarded shall be recovered in the same manner as a fine imposed under the Act.

24. *Grant of certified copies and inspection.*—The procedure for the grant of certified copies of orders, proceedings and rules regarding inspection of records as are applicable to the applications under the Administrative Tribunals Act, 1985, shall apply *mutatis mutandis* to the grant of certified copies of orders, proceedings and to inspection of records.

25. *Repeal and Savings.*—On the coming into force of these rules, all existing rules or the like governing any matter dealt with or covered by these rules shall stand repealed :

Provided that this repeal shall not effect or invalidate anything done, any action or decision taken, any disposal made, any order or proceedings made or issued under the existing rules before coming into force of these rules.

By order,
DEV RAJ SHARMA,
Registrar.

FORM NO. I

REGISTER FOR CONTEMPT PETITIONS

(See rule 8)

Sl. No.	Date of filing	Names of the parties
1	2	3

Name of the Advocate	Remarks
4	5

CONTEMPT PETITION

(CIVIL/CRIMINAL)

FORM NO. II

[See rule 8 (1) (a)]

IN THE HIMACHAL PRADESH ADMINISTRATIVE TRIBUNAL

Name of the Bench..... Place.....

To

The Advocate General/Additional Advocate General.

Whereas information is laid/motion is made by.....that.....(here mention the name of the contemner) has committed the offence of contempt of the Tribunal punishable under section.....(here give the relevant section of the Contempt of Courts Act, 1971); and

(2) Whereas the contempt petition has been registered against.....for action being taken under the Contempt of Courts Act, 1971, of this Tribunal;

(3) You are requested to appear in person on.....day of.....at.....and on subsequent dates to which the proceedings may be adjourned unless otherwise ordered by the Tribunal and assist the Tribunal in the disposal of the aforesaid contempt petition.

Given under my hand and the seal of this Tribunal, this.....day of.....

Seal.

Sd/-
Registrar/Deputy Registrar,
Himachal Pradesh Administrative Tribunal.

*Strike off whichever is not applicable.

CONTEMPT PETITION

(CIVIL/CRIMINAL)

FORM NO. III

[See rule 8 (1) (b)]

NOTICE

IN THE HIMACHAL PRADESH ADMINISTRATIVE TRIBUNAL

Name of the Bench..... Place.....

To

In re.

(here mention the name and address of the person to whom notice is being sent).

Whereas information is laid/a petition is filed/motion is madethat you(here mention the gist of the accusation made in the information/petition/motion):

And whereas a petition has been registered against you for action being taken under the Contempt of Courts Act, 1971;

You are hereby required to appear in person or through a duly authorised Advocate* on day of at and on subsequent dates to which the proceedings may be adjourned unless otherwise ordered by the Tribunal, and show cause why such action as is deemed fit under the Contempt of Courts Act, 1971, should not be taken against you.

Given under my hand and the seal of this Tribunal, this date of

Seal,

Sd/-
Registrar/Deputy Registrar,
Himachal Pradesh Administrative Tribunal.

*Strike off whichever is not applicable.

FORM NO. IV

[See rule 15 (ii)]

CHARGE

IN THE HIMACHAL PRADESH ADMINISTRATIVE TRIBUNAL

Name of the Bench Place

We (name of the Hon'ble Members presiding over the Bench) Member(s) constituting the Bench or the Principal Bench, Himachal Pradesh Administrative Tribunal, hereby charge you (name of the alleged contemner) as under:—

That you on or about day of at (here give the gist of the material allegedly constituting contempt) and thereby committed the contempt of this Tribunal punishable under section (here give the relevant section of the Contempt of Courts Act, 1971), within our cognizance.

We hereby direct you to be tried by this Tribunal for the aforesaid charge.

Signature of the Hon'ble Members.

The charge was read-over and explained to the alleged contemner and he was asked as under:

- (1) Do you plead guilty to the charge ?
Answer :
- (2) Do you have anything else to say ?
Answer :

Signature of the alleged contemner

*Signatures of the Hon'ble Members
presiding over the Bench.*

*Strike off whichever is not applicable.

WARRANT OF COMMITMENT TO PRISON

FORM No. V

[See rule 21 (i)]

IN THE HIMACHAL PRADESH ADMINISTRATIVE TRIBUNAL

Name of the Bench.....

Place.....

To

The Superintendent,

(Name of the Jail)

Place

Whereas the Himachal Pradesh Administrative Tribunal (name of the Bench) held on this day of (name/description of the contemner) has been adjudged by the Tribunal guilty of wilful contempt of the Tribunal and he has been sentenced to undergo imprisonment for the period (here specify the term) and or to pay a fine of Rs. in default of payment of fine undergo imprisonment of

This is to authorise and require you, the Superintendent of the Jail, to receive the said (name of the contemner) into your custody, together with this warrant and keep him safely in the said jail for the said period of (term of imprisonment) or for such period as may hereinafter be fixed by the order of this Tribunal and intimated to you. You are directed to return this warrant with an endorsement certifying the manner of its execution.

You are further directed that while the said is in your custody, produce the said before this Tribunal at all times when the Tribunal so directs.

Given under my hand and seal of the Tribunal, this day of

Seal.

Sd/-

Registrar/Deputy Registrar,
Himachal Pradesh Administrative Tribunal.

FORM No. VI

[See rule 22 (ii)]

IN THE HIMACHAL PRADESH ADMINISTRATIVE TRIBUNAL

Name of the Bench.....

Place.....

To

The Superintendent,

(name of the Jail to which the warrant is sent)

Whereas (here give the name of the person) was found guilty for the contempt of this Tribunal under the Contempt of Courts Act, 1971, on (here give

the date) and was sentenced to undergo imprisonment of.....(here give the term of imprisonment and a fine of Rs.....in default of payment of fine, to further undergo imprisonment of.....

Whereas the said contemner along with a warrant of sentence was given in your custody for undergoing the above-mentioned sentence on.....

Whereas the said contemner has tendered an unconditional apology for the contempt of court committed by him on.....which has been accepted by the Hon'ble Bench of Tribunal.

You are, therefore, directed to release the person above-named in your custody forthwith, as the warrant sent to you against him has been withdrawn.

Dated this.....day of.....

Seal.

Sd/-
Registrar/Deputy Registrar,
Himachal Pradesh Administrative Tribunal.